

REMARKS

In the final Office Action dated November 10, 2003, claims 1, 3–15, and 17–20 were considered. The Action rejected claims 1, 3–8, 10–13, 15, and 17–20 under 35 U.S.C. §102(b) over U.S. Patent No. 4,941,168 issued to Kelly, Jr. (“Kelly, Jr.”) and claim 9 under 35 U.S.C. §103(a) over Kelly, Jr. in view of U.S. Patent No. 6,396,920 issued to Cox et al. (“Cox”). According to the final Office Action, claim 14 stands objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

Applicant hereby amends claims 1, 3–15, and 17–20. The amendments to independent claims 1 and 15 are supported by the specification at, for example, page 13. The amendments to independent claim 8 are supported by the specification at, for example, pages 14 and 18–19, and by the drawings, such as FIG. 4. The amendments to independent claim 9 are supported by the specification at, for example, pages 8 and 18–19. The amendments to dependent claims 4 and 18 are supported by the specification at, for example, pages 16–18. The amendments to dependent claims 3, 5–7, 10–14, 17, and 19–20 address minor wording issues and any required support therefor can be found in the specification, in the drawings, and in the claims as originally-filed. Applicant respectfully submits that no new matter is entered by the present amendments.

Claims 1, 3–8, 10–13, 15, and 17–20 Distinguish over Kelly, Jr.

Claims 1, 3–8, 10–13, 15, and 17–20 were rejected under 35 U.S.C. §102(b) as being anticipated by Kelly, Jr. Applicant respectfully submits that amended independent claims 1, 8, and 15 patentably distinguish over Kelly, Jr. Claims 3–7, 10–13, and 17–20 depend, either directly or indirectly, from either amended independent claim 1 or amended independent claim 15 and, as such, Applicant respectfully submits that those claims are also patentable over Kelly, Jr. Accordingly, Applicant respectfully requests that the Examiner pass these claims, as amended, to allowance.

Kelly, Jr. teaches an automated telephone dialing system for recognizing electronically whether a called party is a human subject or an automated telephone answering device. See Abstract. During the process of determining the presence or absence of a recording, the system can play a first voice message or prompt to the answering party. See Col. 6, ln. 24 – ln. 26, and FIG. 7, Step 210. See also Col. 7, ln. 28 – ln. 33, and FIG. 9, Step 210’. Depending upon how

the answering party responds to the audio instruction, the system determines if the respondent is either human or machine. See Col. 2, ln. 30 – ln. 34.

The system disclosed in Kelly, Jr. can, for example, play a first voice message to the effect of “One moment please . . . ” See Col. 6, ln. 24 – ln. 26, and FIG. 7, Step 210. Following this playing of the first voice message, the system can then call a Silence Detection Operation. See Col. 6, ln. 27 – ln. 28, and FIG. 7, Step 214. If the system detects a pre-determined amount of continuous silence, the called party is determined to be a live person; otherwise, if there is audio present for most of the time following the playing of the first voice message, the called party is determined to be a telephone answering device. See Col. 6, ln. 29 – ln. 40.

In contrast to determining that the called party is a telephone answering device if there is audio present for most of the time following the playing of a first voice message, as described in Kelly, Jr., both the Applicant’s amended independent claims 1 and 15 recite the playing of a prompt and a voice message server that determines “the telephone line pick-up [to be] by an existing answering machine when talk-over occurs at the same time as at least a portion of the playing of the prompt” (emphasis added).

Since Kelly, Jr. fails to teach or suggest a system where the called party is determined to be an answering machine when talk-over occurs at the same time as at least a portion of the playing of the prompt, as recited by Applicant’s amended independent claims 1 and 15, Applicant respectfully requests that the Examiner reconsider and withdraw any rejections of amended independent claims 1 and 15 based on Kelly, Jr. Because claims 3–7, 10–13, and 17–20 depend, either directly or indirectly, from either amended independent claim 1 or 15, Applicant respectfully submits that these claims are allowable as well.

The first voice message played by the system disclosed in Kelly, Jr. can, alternatively, request a called party to press a specific dial tone. See Col. 7, ln. 28 – ln. 33, and FIG. 9, Step 210’. See also Col. 3, ln. 46 – ln. 57. If the system detects the requested dial tone, the called party is determined to be a live person; otherwise, the called party is determined to be a telephone answering device. See Col. 8, ln. 1 – ln. 8 and FIG. 9. Once the called party is determined to be a live person, additional voice messages (e.g., a second voice message) can be played by the system disclosed in Kelly, Jr. to the live person. See Col. 3, ln. 58 – ln. 64.

In contrast to determining the called party to be a live person before the playing of a second voice message, as described in Kelly, Jr., Applicant's amended independent claim 8 recites "determining, after the playing of the first and second voice messages, that the telephone line pick-up was by a live Recipient" (emphasis added). Moreover, as recited in Applicant's amended independent claim 8, "the second voice message is spaced from the first voice message."

Since Kelly, Jr. fails to teach or suggest a system where two different voice messages, spaced apart from one another, are played to a called party prior to determining the called party to be a live Recipient, as recited by Applicant's amended independent claim 8, Applicant respectfully requests that the Examiner reconsider and withdraw any rejections of amended independent claim 8 based on Kelly, Jr.

Claim 9 Distinguishes over Kelly, Jr. and Cox Does Not Remedy the Defects of Kelly, Jr.

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kelly, Jr. in view of Cox. Applicant respectfully traverses this rejection, as applied to amended independent claim 9.

Applicant's amended independent claim 9 recites "requesting, by a voice message server, a specific speech input from the telephone line of the Recipient of the voice message" (emphasis added) and "determining that the telephone line pick-up was by a live Recipient of the voice message when the requested specific speech input is received from the telephone line of the Recipient of the voice message at the voice message server" (emphasis added). Applicant respectfully submits that both Kelly, Jr. and Cox fail to teach or suggest these claim limitations.

Specifically, as discussed hereinabove, Kelly, Jr. only discloses a system that plays a voice message to the effect of "One moment please . . .," see Col. 6, ln. 24 – ln. 26, and FIG. 7, Step 210, or that requests, in the alternative, a called party to press a specific dial tone. See Col. 7, ln. 28 – ln. 33, and FIG. 9, Step 210'. Kelly, Jr. does not disclose, however, requesting a specific speech input from the called party and, consequently, does not disclose determining that the called party is a live Recipient when the specific speech input is received.

Cox teaches systems for providing directory assistance services. See Col. 1, ln. 19 – ln. 20. A caller who requests directory assistance services is connected to an operator. See

Abstract. After determining the telephone number desired by the caller, the directory assistance operator proceeds to initiate a call to the desired party and connects the new outgoing call to the original caller. See Col. 1, ln. 59 – ln. 63. If a busy signal is detected or the called party does not answer the phone, the caller may leave the called party a voice message. See Col. 2, ln. 37 – ln. 43, and Col. 3, ln. 30 – ln. 36. The directory assistance service will thereafter attempt to contact the called party to automatically deliver the caller's message. See Col. 2, ln. 57 – ln. 61. In delivering the caller's message, a voice response unit of the directory assistance service can determine whether the called party is a "live person" or an answering machine / automated answering service. See Col. 16, ln. 66 – Col. 17, ln. 3. The voice response unit makes the determination by examining the energy and duration of the voice response when the call is answered. See Col. 17, ln. 12 – ln. 14.

While the caller may speak a response to any or all menu_submenu items presented by the voice response unit, see, e.g., Col. 4, ln. 12 – ln. 28, and Col. 19, ln. 38 – ln. 58, Cox does not teach or suggest, in determining whether the called party is a "live person" or an answering machine / automated answering service, requesting from the called party a specific speech input. Accordingly, like Kelly, Jr., Cox fails to teach or suggest "requesting, by a voice message server, a specific speech input from the telephone line of the Recipient of the voice message" (emphasis added) and "determining that the telephone line pick-up was by a live Recipient of the voice message when the requested specific speech input is received from the telephone line of the Recipient of the voice message at the voice message server" (emphasis added), as required by Applicant's amended independent claim 9.

Since Cox fails to remedy the defects of Kelly, Jr., Applicant respectfully requests that the Examiner reconsider and withdraw the §103 rejection of amended independent claim 9 based on the combination of Kelly, Jr. and Cox.

CONCLUSION

In light of the foregoing, Applicant submits that claims 1, 3–15, and 17–20 are in condition for allowance. Accordingly, Applicant respectfully requests reconsideration, withdrawal of all grounds of rejection and objection, and allowance of claims 1, 3–15, and 17–20 in due course. Moreover, Applicant believes that no fee is due at the time of submitting this

Paper; however, in the event that any fees are due, the Commissioner is hereby authorized to charge any such fees to Deposit Account No. 20-0531.

If, in the Examiner's opinion, a telephonic interview would expedite the favorable prosecution of the present application, the undersigned attorney would welcome the opportunity to discuss any outstanding issues, and to work with the Examiner toward placing the application in condition for allowance.

Respectfully submitted,

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